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SENATE BILL 2415

By Dixon

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 7, Part 1; Title 6, Chapter 54 and Title 8, Chapter 8, Part 2, relative to law enforcement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) For the purposes of this section, "racial profiling" means the detention, interdiction or other disparate treatment of an individual solely on the basis of the racial or ethnic status of such individual.

(b) No member of the Tennessee Highway Patrol within the department of safety, a sheriff's office, a municipal police department or any other law enforcement agency shall engage in racial profiling. The detention of an individual based on any noncriminal factor or combination of noncriminal factors is inconsistent with this policy.

(c) The race or ethnicity of an individual shall not be the sole factor in determining the existence of probable cause to place in custody or arrest an individual or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a motor vehicle.

SECTION 2.

(a) Not later than January 1, 2001, the highway patrol, each sheriff's office, and each municipal police department shall adopt a written policy that prohibits the stopping, detention or search of any person when such action is solely motivated by considerations of race, color, or ethnicity, and the action would constitute a violation of the civil rights of the person.

(b) Commencing on January 1, 2001, the highway patrol, each sheriff's office, and each municipal police department, using the form developed and promulgated pursuant to Section 3 of this act, shall record and retain the following information:

(1) The number of persons stopped for traffic violations;

(2) Characteristics of race, color, ethnicity, gender and age of such persons, provided the identification of such characteristics shall be based on the observation and perception of the police officer responsible for reporting the stop and the information shall not be required to be provided by the person stopped;

(3) The nature of the alleged traffic violation that resulted in the stop;

(4) Whether a warrant or citation was issued, an arrest made or a search conducted as a result of the stop; and

(5) Whether a search was conducted as a result of the stop; and, if so, the type of search and the legal basis for that search. If a search was conducted, the officer shall note whether contraband was discovered and property was seized.

(c) The highway patrol, each sheriff's office, and each municipal police department shall report such data and information to the comptroller of the treasury, beginning not later than April 1, 2001. All such data and information shall be in a form prescribed by the comptroller.

(d) Any police officer who in good faith records traffic stop information pursuant to the requirements of this section shall not be held civilly liable for the act of recording such information unless the officer's conduct was unreasonable or reckless.

(e) If the highway patrol, a sheriff's office, or a municipal police department fails to comply with the provisions of this section, the comptroller may order an appropriate penalty in the form of the withholding of state funds from such department or agency.

(f) The comptroller shall, within the limits of existing appropriations, provide for a review of the prevalence and disposition of traffic stops and complaints reported pursuant to this section. Not later than January 1, 2003, the comptroller shall report to the governor and general assembly, and the Tennessee Legislative Black Caucus of the results of such review, including any recommendations.

(g) The provisions of subsections (f) and (g) of this section shall be in effect from the effective date of this act until January 1, 2004.

SECTION 3. Not later than July 1, 2000, the comptroller shall develop and promulgate:

(1) A form, in both printed and electronic format, to be used by police officers when making a traffic stop to record personal identifying information about the operator of the motor vehicle that is stopped, the location of the stop, the reason for the stop and other information that is required to be recorded pursuant to subsection (b) of Section 2 of this act; and

(2) A form, in both printed and electronic format, to be used to report complaints pursuant to Section 2 of this act by persons who believe they have been subjected to a motor vehicle stop by a police officer solely on the basis of their race, color, ethnicity, age, or gender.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

